



Express Mail No. ER 248811096 US
Docket No.13232 US2 (C038435/0128425)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

22141 U.S. PTO
10/776104



In re Rule 1.53(b) Divisional Application of:)
Dirk KOSTREWA, *et al.*) Parent Examiner: Tekchand Saidha
Parent Serial No.: 10/062,848) Parent Art Unit: 1652
Parent Filed: February 1, 2002)
For: **MODIFIED PHYTASES**)

New York, New York
February 11, 2004

REQUEST FOR FILING A RULE 1.53(b) DIVISIONAL APPLICATION

Mail Stop Patent Application

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for filing a divisional application under 37 C.F.R. § 1.53(b), of prior pending U.S. Application Serial No. 10/062,848, filed February 1, 2002, which is a divisional of U.S. Application Serial No. 09/044,718, filed March 29, 1998, now U.S. Patent No. 6,391,605.

1. ☒ A copy of the prior application, including the oath or declaration as originally filed in the parent case, is enclosed.
2. ☐ Copies of amendments filed ___ and ___ to "complete" the parent application are enclosed. The undersigned hereby verifies that enclosed copies of the amendments are true copies of the amendments as originally filed in the parent case and that the amendments did not introduce impermissible new matter into that application.

3. ☒ The filing fee is calculated below on the basis of the claims in the parent application as originally filed plus or minus any claims added or canceled by amendment:

Claims as Filed, Plus/Minus Any Claims Added/Canceled By Amendment

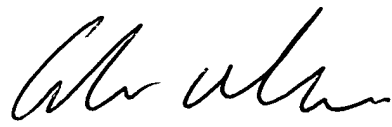
For	Number Filed	Number Extra	Rate	Basic Fee = \$	770.00
Total claims	11 - 20 =	0	x \$18 =	\$	0.00
Independent claims	1 - 3 =	0	x \$86 =	\$	0.00
Total Filing Fees				\$	770.00

- a. ☒ A check in the amount of **\$770.00** to cover the filing fee is enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- b. ☐ Please charge Deposit Account No. 02-4467 in the amount of \$_____. A duplicate copy of this paper is enclosed.
4. ☒ For this divisional application and the parent application the Commissioner is hereby authorized to charge payment of the following fees, or to credit any overpayment, to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- a. ☒ Any additional filing fees required under 37 CFR Section 1.16 not otherwise paid by check.
- b. ☒ Any patent application processing fees required under 37 CFR Section 1.17 not otherwise paid by check.
- c. ☒ Any additional Assignment recording fees under 37 CFR Section 1.21 (h) not otherwise paid by check.
5. ☒ Relation back under 35 USC § 120: Amend the specification by inserting before the first line, the sentence: - - This application is a divisional of U.S. Application Serial No. 10/062,848, filed February 1, 2002, which is a divisional of U.S. Application Serial No. 09/044,718, filed March 19, 1998, now U.S. Patent No. 6,391,605. - -
6. ☐ Please cancel claims ____ and ____ before calculating the filing fee.
7. ☒ A Preliminary Amendment is enclosed. Please enter it before calculating the filing fee.
8. ☒ The prior application is assigned of record to ROCHE VITAMINS INC.

9. ☐ The prior application is not assigned. An assignment to _____, a Recordation Form Cover Sheet, and a check for \$_____ to cover the recording fee are enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467.
10. ☒ Address all communications to:
- Stephen M. Haracz, Esq.
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, New York 10104-3300
tel. (212) 541-2000
fax (212) 541-4630
11. ☒ Drawings are part of this divisional application.
- a. ☐ Transfer the drawings from the parent application to this Rule 1.53(b) application and abandon the parent application as of the filing date accorded this application. A duplicate copy of this paper is enclosed for filing in the parent case. (May be used only if the undersigned is one authorized by 37 CFR Section 1.138 and before payment of the issue fee in the parent case.)
- b. ☒ Formal drawings (Figs. 1-26) are enclosed.
- c. ☐ Informal drawings are enclosed. The undersigned hereby verifies that these drawings are true copies of the drawings in the parent application as originally filed.
12. ☒ A Sequence Listing is part of this divisional application.
- a. ☐ A Sequence Listing in paper form in accordance with 37 CFR § 1.821(c) is part of the originally filed application. A computer readable form of the Sequence Listing is not enclosed.
- b. ☒ A copy of the Sequence Listing as filed in the parent case is enclosed.
- c. ☒ A Request To Transfer Previously Filed Sequence Information Pursuant To CFR § 1.82(e) is enclosed.
13. ☒ Priority is hereby claimed under 35 USC Section 119 based on Application No. **97810175.6** filed **March 25, 1997** in **Europe**.
- a. ☒ A certified copy of the priority document is already of record in U.S. Application Serial No. 09/044,718, filed March 19, 1998.

- b. ☐ The certified priority document(s) is(are) enclosed herewith for filing in this continuing case.
- c. ☐ Certified copies of the priority document(s) will follow.
14. ☒ A Power of Attorney is of record in U.S. Application Serial No. 09/044,718 filed March 19, 1998. The Power of Attorney is to George W. Johnston, Reg. No. 28,090; William H. Epstein, Reg. No. 20,008; Dennis P. Tramaloni, Reg. No. 28,542; Patricia S. Rocha-Tramaloni, Reg. No. 31,054; and Bruce A. Pokras, Reg. No. 32,748. A copy of the Power of Attorney is enclosed.
15. ☒ A Power of Attorney to Associate Attorney is of record in U.S. Application Serial No. 09/044,718 filed March 19, 1998. The Power of Attorney to Associate Attorney is to Stephen M. Haracz, Reg. No. 33,397; Warren K. MacRae, Reg. No. 37,876; Kevin C. Hooper, Reg. No. 40,402; Joy S. Goudie, Reg. No. 48,146; Stephen J. Brown, Reg. No. 43,519 and Gonzalo Merino, Reg. No. 51,192. A copy of the Power of Attorney to Associate Attorney is enclosed.
16. ☐ A petition for extension of time in the parent application is enclosed so that the parent application will be pending as of the time this paper is filed.

Respectfully submitted,

By: 
Gonzalo Merino, Ph.D.
Registration No. 51,192
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New York, NY 10104-3300
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CERTIFICATE OF EXPRESS MAILING

"Express Mail" Mailing Label No.: **ER 248811096US**

Date of Deposit: February 11, 2004

I hereby certify that the following:

- ☒ This Certificate of Express Mailing (1 pg.);
- ☒ Request for Filing A Rule 1.53(b) Divisional Application in duplicate (4 pp. in duplicate);
- ☒ Specification, Claims, and Abstract (39 pp.);
- ☒ Copy of Declaration and Power of Attorney (3 pp.) (executed);
- ☒ Copy of Power of Attorney to Associate Attorney (1 pg.);
- ☒ Paper copy of Sequence Listing as originally filed in Parent Application (51 pp.);
- ☒ Preliminary Amendment (15 pp. including duplicate first page);
- ☒ Ninety-Five (95) sheets of formal drawings (FIGS. 1-26);
- ☒ Request to Transfer Previously Filed Sequence Information Pursuant to 37 C.F.R. § 1.821(e) (1 pg.);
- ☒ Check for \$770.00 to cover filing fee; and
- ☒ Return Postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the Date of Deposit indicated above in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Mail Stop Patent Application.


Marvin Chisolm

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